

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

OMAR SEGURA,

Plaintiff,

v.

MALDONADO, *et al.*,

Defendants.

No. 1:23-cv-0780 JLT BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS

(Doc. 9)

Omar Segura seeks to hold the defendants liable for violations of his civil rights while incarcerated at North Kern State Prison. (Doc. 7.) The assigned magistrate judge screened Plaintiff's First Amended Complaint and found he stated cognizable claims against Correctional Officers Cohello and John Doe 1 for excessive force in violation of the Eighth Amendment. However, the magistrate judge found the remaining claims in the First Amended Complaint were not cognizable and recommended all other claims and defendants be dismissed. (Doc. 9 at 3-9.)

The Court served the Findings and Recommendations were served on Plaintiff and notified him that any objections were due within 14 days of the date of service. (Doc. 9 at 9.) In addition, the Court informed Plaintiff that "the failure to file objections within the specified time may result in the waiver of the 'right to challenge the magistrate's factual findings' on appeal." (*Id.*, quoting *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).) Plaintiff did not file objections, and the deadline to do so has expired.

1 According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this
2 case. Having carefully reviewed the entire file, the Court concludes the Findings and
3 Recommendations to be supported by the record and by proper analysis. Thus, the Court

4 **ORDERS:**

- 5 1. The Findings and Recommendations issued on August 31, 2023 (Doc. 9), are
6 adopted in full.
- 7 2. This action shall proceed only on Plaintiff's claim for excessive force in violation
8 of the Eighth Amendment against Defendants Cohello and John Doe 1, as stated in
9 the First Amended Complaint.
- 10 3. All other claims and defendants are dismissed from this action for failure to state
11 claims upon which relief may be granted.
- 12 4. The Clerk of Court is directed to update the docket and terminate defendants
13 Maldonado and Madrigal.
- 14 5. This action is referred to the magistrate judge for further proceedings.

15 IT IS SO ORDERED.

16
17 Dated: **October 3, 2023**


UNITED STATES DISTRICT JUDGE